

MINUTES
SAN DIEGO COUNTY PLANNING COMMISSION
Regular Meeting – January 13, 2006
DPLU Hearing Room, 9:00 a.m.

The meeting convened at 9:04 a.m., recessed at 10:29 a.m., reconvened at 10:55 a.m. and adjourned at 1:27 p.m.

A. ROLL CALL

Commissioners Present: Beck, Day, Kreitzer, Miller, Riess, Woods

Commissioners Absent: Brooks

Advisors Present: Areigat (DPW); Taylor (OCC)

Staff Present: Elias, Esperance, Gibson, Gowens, Loy, Russell, Turner, Wright, Jones (recording secretary)

Commissioner Woods excused himself from today's meeting at 1:00 p.m.

B. Statement of Planning Commission's Proceedings, Approval of Minutes for the Meeting of December 16, 2005

Action: Beck – Kreitzer

Approve the Minutes of December 16, 2005 as revised by Commissioner Beck on Page 18.

Ayes: 4 - Brooks, Day, Kreitzer, Miller
Noes: 0 - None
Abstain: 0 - None
Absent: 3 - Brooks, Riess, Woods

C. Public Communication: Opportunity for members of the public to speak to the Commission on any subject matter within the Commission's jurisdiction but not an item on today's Agenda.

There were none.

D. Formation of Consent Calendar: Item 1

P03-122, Agenda Item 1:

1. Sprint PCS Wireless Cell Site, Major Use Permit P03-122, Crest-Dehesa Community Plan Area

Request for a Major Use Permit to allow construction and operation of an unmanned wireless facility and associated equipment on the site of the Dehesa fire station. The project will occupy 356 square feet of the 1.32-acre parcel. These antennas will be mounted within a 45-foot tall faux water tank designed to resemble a typical rural elevated water tower. The associated operating equipment will be housed within a 280.8 square-foot stucco-finish enclosure, with a 12-foot high wall, and mansard tile roof to match the existing fire station building. The project will be located on an existing graded but unpaved pad that is a part of the existing fire station facility. The project is located in the 1.3 Estate Development Area (EDA) Regional Category and (18) Estate Residential (one dwelling unit per two or four gross acres) Land Use Designation of the General Plan. The site is zoned A72 General Agriculture Use Regulation, and is located at 5425 Dehesa Road at Sycuan Road in El Cajon. The "G" Height Designator on the property limits the height to 35 feet; however, pursuant to Section 4620.g of the Zoning Ordinance, the transmitting antennas are allowed to be raised above the Height Designator with a Major Use Permit.

Staff Presentation: Wright

Proponents: 1; **Opponents:** 0

This Item is approved on consent.

Action: Beck – Kreitzer

Grant Major Use Permit P03-122, which makes the appropriate Findings and includes those requirements and Conditions necessary to ensure that the project is implemented in a manner consistent with the Zoning Ordinance and State law.

Ayes:	5 -	Beck, Kreitzer, Miller, Riess, Woods
Noes:	0 -	None
Abstain:	1 -	Day
Absent:	1 -	Brooks

SPA 99-005, R99-020,
TM 5187RPL¹¹ and P04-024, Agenda Item 2:

2. Pala Mesa Highlands, Specific Plan Amendment (SPA) 99-005, Zone Reclassification R99-020, Tentative Map (TM) 5187RPL¹¹, Major Use Permit P04-024, Fallbrook Community Plan Area

Proposal by Beazer Homes for a Planned Residential Development (PRD) consisting of 130 single-family residences, related recreational facilities and open space. A Specific Plan Amendment, SPA 99-005, for Areas C, D and E of the Pala Mesa Private Development Plan (PDP) is proposed to combine Areas C, D and E of the PDP, and delete the PDP limitation on the number of bedrooms and requirement for attached housing to allow the proposed development. A concurrent Zone Reclassification, R99-020, to the S88 Specific Use Regulations with minimum lot sizes of 5,500 square feet, is proposed to implement the changes proposed by the Specific Plan Amendment. The "P" Planned Development and "B" Design Review Special Area Regulation Designators are included in the Zone Reclassification to ensure compliance with the I-15 Corridor Design Guidelines and the requirement for a PRD.

Tentative Map 5187RPL¹¹ proposes to subdivide the site into 130 residential lots ranging in size from 5,507 to 16,905 square feet and six lots for parks, fuel management, landscaping and 36.5 acres of open space to preserve sensitive habitat lands. Major Use Permit P04-024 is proposed to implement the PRD requirement and provides for a main recreation area with swimming pool, restroom, picnic facilities, ½ basketball court and related parking, as well as a private pocket park with picnic areas and open turf play areas and both public and private trails. One- and two-story homes in a variety of architectural styles are proposed. The site is 84.5 acres in size, is subject to Policy 1.1, the Current Urban Development Area (CUDA), and is in the (21) Specific Plan Area Land Use Designation with an overall density of 2.75 dwelling units per acre. The project site is located west of Highway 395, between Via Belmonte and Pala Mesa Drive.

Staff Presentation: Esperance

Proponents: 12; Opponents: 32

**SPA 99-005, R99-020,
TM 5187RPL¹¹ and P04-024, Agenda Item 2:**

Discussion

The Fallbrook Planning Group chairman informs the Planning Commissioners that the Planning Group has consistently recommended denial of this project because they believe it is incompatible with the Pala Mesa Private Development Plan (PDP) and the surrounding area. The Planning Group chairman observes that all other developers within the covenant have managed to comply with the PDP. The Planning Group's representatives believe the proposed project will result in visual and traffic impacts, and they do not support the introduction of solid concrete walls to reduce noise from the freeway. The Planning Group's representatives consider this proposal a subdivision, not a Planned Residential Development, and remind the Commission that the project cannot move forward without the Zone Reclassification. They insist that the only open space to be provided is land from an undevelopable slope, and point out that in spite of the I-15 Corridor Design Review Board's support of the proposal, that Board does not review or make recommendations on land use proposals.

In addition to the issues raised by Planning Group representatives, project opponents are also concerned about the lack of amenities for children, the size of the proposed residences, and the proposal's possible negative impacts on their quality of life and property values. They urge the Planning Commission to deny the project.

Staff has determined that all potential environmental impacts have been fully mitigated, and the applicant's representatives insist that today's proposal is supported by many of the community's residents. The applicant's representatives maintain that this proposal meets all County standards, reduces densities, and provides for a higher level of amenities than previously offered, including a pocket park, a main recreation area, picnic areas, a trail, and retaining the existing pepper tree.

Responding to questions posed by Commissioner Beck, Staff informs the Planning Commissioners that the site comprises approximately 20% of the land contained in the original PDP, and more than ½ of the planned residential units. Today's 130-residential unit alternative is based on the PDP but, under current zoning, 303 attached and unattached units are allowed.

SPA 99-005, R99-020,

TM 5187RPL¹¹ and P04-024, Agenda Item 2:

Discussing the proposal's compatibility with community character, the bulk and scale of the development, and possible environmental impacts, Staff explains that housing needs and desires have changed over time and it is believed that this proposal is compatible with existing developments in the area. With respect to possible environmental impacts, Staff explains that the applicant must obtain a Habitat Loss Permit that will be reviewed by the various resource agencies.

Commissioner Beck inquires about this proposal's possible impacts on the breeding season of the California gnatcatcher, noting that construction will commence three weeks after the breeding season begins. He also inquires about how habitat for the Western spade-foot toad will be impacted, resulting in the loss of this species. Staff explains that the applicant and the resource agencies negotiated construction timelines to minimize any possible impacts to breeding gnatcatchers. Furthermore, California gnatcatchers do not select nest sites as early as Coastal gnatcatchers, and the gnatcatchers on the project site will occupy an area away from construction. The loss of the spade-foot toads will be compensated by habitat-based mitigation land.

Commissioner Beck discusses the composition of the proposed landscaping, the vulnerability of dedicated open space easements as opposed to Conservation Easements, and questions whether the proposed open space easement area is part of the MSCP. Staff explains that a majority of the landscape plants are non-native; native species to be provided are primarily oak trees and the revegetated area. The project site is within the North County MSCP, which has not yet been adopted.

Staff explains that the dedicated onsite open space easement, which contains high-quality gnatcatcher habitat, will be managed by the Fallbrook Conservancy. The proposed offsite mitigation land is 36 acres of occupied habitat. Resource agencies have determined this to be adequate mitigation. With regard to the vulnerability of dedicated open space easements, Staff has been advised by County Counsel that State law indicates that a Conservation Easement can not be required.

Responding to questions posed by Commissioner Riess regarding impacts on traffic circulation, Staff reminds the Commissioners that the applicant will provide significant improvements as mitigation, including the payment of fees to address cumulative traffic impacts.

**SPA 99-005, R99-020,
TM 5187RPL¹¹ and P04-024, Agenda Item 2:**

Commissioners Beck and Day express disappointment that only one project alternative was addressed in the EIR, but Staff determined that the only issue requiring further resolution was the proposal's compatibility with community character. It was obvious to Staff that all other impacts had been adequately mitigated.

Commissioner Woods is somewhat skeptical about the proposed mitigation for freeway noise, such as requiring that the residences contain air conditioners or sound-proof glass. He reminds Staff that he was quite dissatisfied with the last proposal, and believes many of those same concerns remain today. Commissioner Woods does not believe the proposed mitigation adequately addresses freeway noise impacts, nor does he believe the proposal is consistent with the PDP or compatible with community character.

Commissioner Kreitzer concurs with Commissioner Woods. He does not believe the applicants have adequately addressed concerns regarding compatibility with the surrounding area, the lack of amenities for children or traffic impacts. Commissioner Riess is also concerned about the proposed mitigation for freeway noise.

Commissioner Miller believes today's proposal is an improvement over impacts neighboring property owners could experience under current zoning. He reminds those in attendance that sound attenuation measures can significantly reduce noise. Commissioner Miller believes the environmental issues associated with this proposal are less significant than issues identified in many other proposals presented to the Commission.

Action: Beck – Woods

Recommend that the Board of Supervisors deny Pala Mesa Highlands, Specific Plan Amendment (SPA) 99-005, Zone Reclassification R99-020, Tentative Map (TM) 5187RPL¹¹ and Major Use Permit P04-024.

Discussion of the Action

The Planning Commissioners believe the existing development regulations under the PDP can be and should be honored. Commissioner Beck points out that community residents were **not** presented with an alternative that was based on existing zoning. He does not believe that mitigation measures such as keeping

SPA 99-005, R99-020,

TM 5187RPL¹¹ and P04-024, Agenda Item 2:

windows closed are adequate or acceptable. Nor does he believe that the project is consistent with the character of the community, or the bulk and scale of existing development in the area.

Ayes:	5 -	Beck, Day, Kreitzer, Riess, Woods
Noes:	1 -	Miller
Abstain:	0 -	None
Absent:	1 -	Brooks

AA 05-002, Agenda Item 3:

3. C&H Gardens, Administrative Appeal (AA) 05-002, San Dieguito Community Plan Area

Administrative Appeal of the Decision made by the Director of Planning and Land Use determining that an existing retail nursery was established without a required Major Use Permit and is not a legal, non-conforming use. The property is zoned A70 Limited Agriculture Use Regulations, which requires a Major Use Permit to allow Agricultural and Horticultural Sales. The subject property is designated (24) Impact Sensitive by the San Dieguito Community Plan, and is located at 4580 El Mirlo.

Staff Presentation: Gowens

Proponents: 5; **Opponents:** 2

Note: Commissioner Day states he will abstain from participating in the hearing of this Item.

Discussion:

Reviewing the history of this property, Staff explains that the owners of the project site removed a shed from their property in July 2003 and leased a portion of the parcel previously occupied by the shed to the appellant. The appellant subsequently placed a portable trailer onsite to use in the operation of a retail nursery that included signage, parking, and an outdoor display area. Per Staff, a retail nursery is classified as Agricultural and Horticultural Sales according to Section 1415 of the Zoning Ordinance. The project site is zoned A70 Limited Agriculture Use Regulations, which requires a Major Use Permit for Agricultural and Horticultural Sales.

The appellant has not obtained the necessary Major Use Permit, though he submitted an application for one in December 2004. Staff issued a scoping letter on that application, identifying major project issues including the fact that the property is located within a floodplain, subject to frequent inundation and resulting in serious impacts on water quality and public safety

AA 05-002, Agenda Item 3:

The appellant was directed to prepare a Drainage Study and a Resource Protection Study, as well as a Biological Resources Report with a vegetation map, and a Traffic Report. The appellant was given 120 days to prepare these reports with replacement plot plans and landscape plans. When the 120 days expired, the applicant did not provide the documents requested, and indicated that he had been researching whether previous commercial use of the property established non-conforming use rights, thereby removing the need for a Major Use Permit. A request for an extension of the expired response deadline was denied due to lack of progress on the part of the appellant.

The appellant withdrew the Use Permit application in July 2005, asserting that the retail nursery was vested with non-conforming status from previous commercial use of the property, and requested a Director's determination on that issue. In September 2005, a determination was issued, finding that the present retail nursery is not a non-conforming use. While there have been seasonal sales of produce and trees on the property, these uses were not of the same character as the current retail nursery. Furthermore, the replacement of structures, and expansion and modification of outdoor sales/display areas negates any non-conforming use rights that might have existed.

Staff determined that a Special Use Permit has been required for the retail sales of produce and trees since 1965, and no such Permit or Major Use Permit has ever been obtained. Even if the current nursery use was considered to be a continuation of a previous use, a Major Use Permit is still required.

Project opponents representing the Rancho Santa Fe Association and the San Elijo Lagoon Conservancy the Director's determination. They insist that the existing nursery was illegally established, and that the appellant must be required to obtain a Major Use Permit. They remind the Planning Commission that the property is adjacent to sensitive habitat, and are adamant that impacts from this commercial operation threatens the viability of the San Elijo Lagoon. In addition, project opponents maintain that this commercial use is not compatible with this residential area.

The appellant's legal representative maintains that the use is legally non-conforming, and informs the Commission that the appellant does not use chemicals, thus removing any concerns about potential detrimental impacts on the Lagoon.

AA 05-002, Agenda Item 3:

Staff reiterates that the property was converted from A4 zoning to A-70 in 1978. Since 1965, a Use Permit has been required and Staff does not believe the appellant has provided sufficient evidence to support his allegations that the use onsite is legally non-conforming.

Action: Riess – beck

Deny the appeal and affirm the Decision of the Director of Planning and Land Use.

Ayes:	4 -	Beck, Kreitzer, Miller, Riess
Noes:	1 -	Woods
Abstain:	1 -	Day
Absent:	1 -	Brooks

POD 05-080, Agenda Item 4:

4. Proposed Zoning Ordinance Amendment POD 05-080, Monitoring Compliance for Use Permits, County-Wide

Proposed Zoning Ordinance amendment which will add new sections to Section 7362 of the Zoning Ordinance, allowing the Director of Planning and Land Use to conduct periodic inspections of property for which a Use Permit has been granted, to ensure that the permittee is complying with the Use Permit Conditions. Inspections under this Section are in addition to any inspections authorized under Section 7702.

Staff Presentation: Brown

Proponents: 0; **Opponents:** 1; **Neutral:** 1

In recent years, Staff levels were such that visits to project sites to verify Permit Compliance were only made if DPLU received complaints, but the Department now has staffing to perform these inspections. The Valle de Oro (VDO) Planning Group chairman submitted a slip opposing this Zoning Ordinance amendment because he does not believe Staff should notify property owners 24 hours prior to inspections for Permit compliance, nor does he support limiting inspections to once every 12 months. A member of the audience supports Staff's proposal because he has always recommended that Staff monitor Permit compliance, but he's concerned that other Planning Group representatives may not be aware of Staff's proposals. This speaker concurs with the VDO chairman's recommendations pertaining to 24-hour noticing and limiting inspections to once a year, as do Commissioners Kreitzer and Day. Those in attendance are reminded that inspections will occur more frequently if Staff determines that the Permit holder is not complying with the Conditions of the Permit. With respect to the 24-hour notifications, County Counsel reminds the Commission that inspecting private property without the owners' consent is illegal.

Action: Riess – Miller

Recommend that the Board of Supervisors:

1. Find that the proposed project is exempt from the California Environmental Quality Act (CEQA) as specified under Section 15061(b)(3) of the State CEQA Guidelines; and

POD 05-080, Agenda Item 4:

2. Adopt the Ordinance amending the San Diego County Zoning Ordinance relating to Monitoring Compliance for Use Permits.

Ayes:	4 -	Beck, Day, Miller, Riess
Noes:	1 -	Kreitzer
Abstain:	0 -	None
Absent:	2 -	Brooks, Woods

Legal Developments, Agenda Item 5:

5. Legal Developments Quarterly Report

Staff Presentation: Taylor (OCC)

Proponents: 0; **Opponents:** 0

This Item is postponed until January 27, 2006.

Administrative:

E. Director's Report

There was none.

F. Report on actions of Planning Commission's Subcommittees:

There were none.

G. Designation of member to represent the Planning Commission at Board of Supervisors meeting(s):

Commissioner Day will represent the Planning Commission at the January 25, 2006 Board of Supervisors meeting.

H. Discussion of correspondence received by the Planning Commission:

There was none.

Department Report

I. Scheduled Meetings:

February 10, 2006	Regular Meeting, 9:00 a.m., DPLU Hearing Room
February 24, 2006	Regular Meeting, 9:00 a.m., DPLU Hearing Room
March 10, 2006	Regular Meeting, 9:00 a.m., DPLU Hearing Room
March 24, 2006	Regular Meeting, 9:00 a.m., DPLU Hearing Room
April 7, 2006	Regular Meeting, 9:00 a.m., DPLU Hearing Room
April 21, 2006	Regular Meeting, 9:00 a.m., DPLU Hearing Room
May 5, 2006	Regular Meeting, 9:00 a.m., DPLU Hearing Room
May 19, 2006	Regular Meeting, 9:00 a.m., DPLU Hearing Room

There being no further business to be considered at this time, the Chairman adjourned the meeting at 1:27 p.m. to 9:00 a.m. on January 27, 2006 in the DPLU Hearing Room, 5201 Ruffin Road, Suite B, San Diego, California.